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OFFICE OF PETITIONS

In re Application of :
Wade Martin Poteet et al :
Application No. 10/717,921 : DECISION ON PETITION
Filed: November 21, 2003 :
Attorney Docket No. 86581-0003 :

This is a decision on the petition, filed November 10, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of January 30, 2008, which set a three (3) month shortened statutory period for reply. A reply was due on or before April 30, 2008.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on August 25, 2008 of, *inter alia*, amendment transmittal, amendment and response and request for refund. A copy of the previously submitted reply accompanies the petition.

The reply acknowledged as having been received in the USPTO on April 25, 2008 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The request for refund submitted with the response will be decided by the Technology Center AU 2884.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on April 25, 2008.

This application is being referred to Technology Center AU 2884 for appropriate action in the normal course of business on the reply received with petition.



Karen Creasy
Petitions Examiner
Office of Petitions